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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/626,435

07/22/2003

Gerald R. Noone

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09/22/2004

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EXAMINER

ELKINS, GARY E

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,435

Applicant(s)

NOONE ET AL.

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 22 July 2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following are each indefinite insofar as a plurality of the recited element were previously defined in the claims and one cannot determine which of the previous plurality of elements is being referred to: claim 1, lines 9, 10, 13, 14, 17, 19, 20, 25-27, 29, 30, 40-45 and 50, (in respective order) "said bottom edge" (4 occurrences), "said top edge" (5 occurrences), "said first panel", "said left edge", "said first flap", "said bottom edge" (3 occurrences), "said left edge" and "said right edge".

The following are each a double inclusion of an element, i.e. the element is being reintroduced into the claims: claim 1, lines 9, 10, 14, 15, 23, 24, 39, 40, 68, 69, 77 and 78, "one edge of said bottom panel" (---one of said edges of said bottom panel--- refers back to the previously defined edges), "top edge of said first panel" (---said top edge of said first panel--- refers back), "one edge of said bottom panel", "one edge of said first end first panel" and "at least one slot in said bottom panel" (2 occurrences).

The following each lack antecedent basis in the claims, i.e. each is only inferentially set forth: claim 1, lines 16-19, 27, 43, 44, 82 and 83, "the left and right sides of the bottom edge", "the left and right sides of the said top edge", "the other side of said top edge", "the other side of said bottom edge" and "said boxes" (two occurrences).

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Parts (ii) and (iii) of claim 1 are unclear. In part (c), the claim indicates that “each end panel” is comprising the elements set forth in (ii) and (iii). However, these parts appear to relate only to the first end, i.e. “a first end second panel” as set forth in these parts is confusing as to what is being claimed. If the second panel is being defined only with respect to the first end, then the sections should be changed so that they are not under the sections relating to both end panels.

In claim 1, line 41, “said bottom edges said bottom edge” is grammatically unclear.

In claim 1, line 79, “whereby when said box is assembled” renders the claim unclear with respect to what is being claimed. The preamble defines that a box is being claimed while the above phrase implies that the box has not yet been formed.

Claim 4 is indefinite for the same reasons as defined with respect to claim 1 above.

Also, in claim 4, parts (iv), (v) and (vi) are unclear insofar as the limitations therein appear to be part of the method steps defined in parts (b)-(g). Claim 4 is directed to a method of making a container while parts (iv)-(vi) are defining actions which have already been completed or are intended to be completed in the future, i.e. parts (iv)-(vi) are written in product format.

Allowable Subject Matter

2. Claims 1-5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

The cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (703)872-9306. This practice may be

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used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If in receiving this Office Action, it is apparent that certain documents are missing, e.g. copies of references cited, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703)306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703)308-1078.

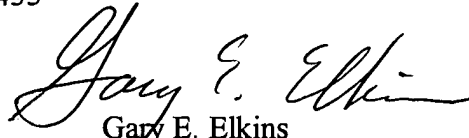
Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (703)308-1034. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Lee Young can be reached at (703)308-2572.

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A handwritten signature in cursive script, reading "Gary E. Elkins".

Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
20 September 2004